



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

TRINITY MEDICAL CENTER
2401 INTERNET BLVD STE 110
FRISCO TX 75034

Carrier's Austin Representative Box
#01

Respondent Name

LIBERTY MUTUAL FIRE INSURANCE CO

MFDR Date Received

MARCH 13, 2007

MFDR Tracking Number

M4-07-4250-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary From The Table of Disputed Services Dated March 13, 2007: "Total charges exceed Stop Loss Threshold of \$40K therefore Stop Loss reimbursement is warranted."

Requestor's Supplemental Position Summary Dated September 28, 2007: "This letter shall serve as formal notice that I have been retained by Trinity Medical Center in regards to the following medical dispute that has been previously filed by the hospital:...By copy, notice of my representation is also being provided to the carrier."

Amount in Dispute: \$52,379.39

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated March 31, 2007: "We base our payments on the Texas Fee Guidelines and the Texas Department of Insurance/Division of Workers' Compensation Commission's Acts and Rules. We have received the medical dispute filed by Trinity Medical Center for services rendered to [Claimant] between dates of service 8/3/06-8/7/06. The bill and documentation attached to the medical dispute have been re-reviewed and our position remains the same. Our rationale is as follows:

This is an inpatient admission with a total billed charge of \$105537.00. Although the total billed charge is over the \$40,000.00 threshold listed in the Texas Fee Schedule, the bill does not meet the other criteria listed. The Medical Dispute Resolution Newsletter published in April 2005 and the Staff Report published by TDI/DWC in February 2005 both state that in order for the bill to qualify to be reimbursed at the stop loss reimbursement methodology, there must be an unusual complication during this admission such as an infection, return to the operating room or complication. As far as we can tell, the admission did not meet this additional criteria, therefore; the bill was paid per the Texas Fee Schedule Acute Care Inpatient Fee Guideline...Liberty Mutual does not believe that Trinity Medical Center is due any further reimbursement..."

Response Submitted by: Liberty Mutual Insurance Group, 2875 Browns Bridge Road, Gainesville, GA 30504

Respondent's Supplemental Position Summary Dated November 30, 2011: "Based on the performed procedure, as well as the length of stay, the Requestor has invoked the Stop-Loss Exception contained within the former Acute Care Inpatient Hospital Fee Guidelines and sought reimbursement for facility fees for dates-of-service August 3, 2006 through August 7, 2006. The Requestor now seeks reimbursement in the amount of \$52,379.39. Requestor has failed to meet the Austin Third Court of Appeals' mandate that, to qualify for reimbursement under the Stop-Loss Exception (former 28 Tex. Admin. Code §134.401(c)(6)) a hospital must

demonstrate two things: the services it provided during the admission were unusually costly and unusually extensive, and its total audited charges exceeded \$40,000...The Requestor in this matter offers neither explanation nor discussion as to how the services it provided may be considered unusually costly. It simply presents an inflated bill and demands payment...It looks as though the hospital's charges greatly exceeded the hospital's costs, which certainly does not lend credence to its position the services were unusually costly. Because Requestor has not met its burden of demonstrating usually extensive services, and the documentation adduced thus far failed to provide any rationale for the Requestor's qualification for payment under the Stop-Loss Exception, Respondent appropriately issued payment per the standard Texas surgical per diem rate. No additional monies are due to the Requestor."

Response Submitted by: Hanna & Plaut LLP, 211 East Seventh Street, Suite 600, Austin, TX 78701

Respondent's Supplemental Position Summary Dated January 31, 2012: "Respondent's review of the file provides no indication that extensive services were administered over the course of this admission. Claimant underwent an anterior and posterior lumbar fusion. Surgery progressed without complication. Postoperatively, progress notes confirm that claimant did well. Claimant was ambulatory during her admission and successfully completed physical therapy...This admission presented no unusual problems or complications and did not involve unusually extensive services...Because Requestor has not met its burden of demonstrating unusually extensive services, and the documentation adduced thus far failed to provide any rationale for the Requestor's qualification for payment under the Stop-Loss Exception, Respondent appropriately issued payment per the standard Texas surgical *per diem* rate. No additional monies are due to the Requestor."

Response Submitted by: Hanna & Plaut LLP, 211 East Seventh Street, Suite 600, Austin, TX 78701

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
August 3, 2006 through August 7, 2006	Inpatient Hospital Services	\$52,379.39	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, 31 *Texas Register* 10314, applicable to requests filed on or after January 15, 2007, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.
3. 28 Texas Administrative Code §134.1, 31 *Texas Register* 3561, effective May 2, 2006, sets out the guidelines for a fair and reasonable amount of reimbursement in the absence of a contract or an applicable division fee guideline.
4. 28 Texas Administrative Code §133.4, effective July 27, 2008, requires the insurance carrier to notify providers of contractual agreements for informal and voluntary networks.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- 45-Charges exceed your contracted/legislated fee arrangement
- P303-This service was reviewed in accordance with your contract. (P303)
- Z695 The charges for this hospitalization have been reduced based on the fee schedule allowance. (Z695)
- W1-Workers Compensation state fee schedule adjustment.
- Z711-The charge for this procedure exceeds the customary charges by other providers for this service. (Z711)
- Z612-This bill was reviewed in accordance with your contract with FIRST HEALTH. For questions regarding this analysis, please call (800) 937-6824. (Z612)

Issues

1. Does the submitted documentation support a contractual agreement exists in this dispute?
2. Did the audited charges exceed \$40,000.00?
3. Did the admission in dispute involve unusually extensive services?
4. Did the admission in dispute involve unusually costly services?
5. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 Texas Register 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 South Western Reporter Third 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services.” Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The division received supplemental information as noted in the position summaries above. The supplemental information was shared among the parties as appropriate. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that “Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection...” 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. The insurance carrier reduced or denied disputed services with reason code 45 – “Charges Exceed Your Contracted/Legislated Fee Arrangement.” Review of the submitted information finds insufficient documentation to support that the disputed services are subject to a contractual agreement between the parties to this dispute. The above denial/reduction reason is not supported. The disputed services will therefore be reviewed for payment in accordance with applicable Division rules and fee guidelines.
2. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states “...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold.” Furthermore, (A) (v) of that same section states “...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed...” Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$105,537.00. The Division concludes that the total audited charges exceed \$40,000.
1. 28 Texas Administrative Code §134.401(c)(2)(C) allows for payment under the stop-loss exception on a case-by-case basis only if the particular case exceeds the stop-loss threshold as described in paragraph (6). Paragraph (6)(A)(ii) states that “This stop-loss threshold is established to ensure compensation for unusually extensive services required during an admission.” The Third Court of Appeals' November 13, 2008 opinion states that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services” and further states that “...independent reimbursement under the Stop-Loss Exception was meant to apply on a case-by-case basis in relatively few cases.” The requestor in its original position statement states that “Total charges exceed Stop Loss Threshold of \$40K therefore Stop Loss reimbursement is warranted.” This statement does not meet the requirements of 28 Texas Administrative Code §134.401(c)(2)(C) because the requestor presumes that the disputed services meet Stop-Loss, thereby presuming that the admission was unusually extensive. The division concludes that the requestor failed to meet the requirements of 28 Texas Administrative Code §134.401(c)(2)(C).
2. 28 Texas Administrative Code §134.401(c)(6) states that “Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker.” The Third Court of Appeals' November 13, 2008

opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must demonstrate that an admission involved unusually costly services. The requestor's original position statement does not address how this inpatient admission was unusually costly. The requestor does not provide a reasonable comparison between the cost associated with this admission when compared to similar spinal surgery services or admissions, thereby failing to demonstrate that the admission in dispute was unusually costly. The division concludes that the requestor failed to meet the requirements of 28 Texas Administrative Code §134.401(c)(6).

3. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The Division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.
 - Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that "The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission..." The length of stay was four days. The surgical per diem rate of \$1,118.00 multiplied by the length of stay of four days results in an allowable amount of \$4,472.00.
 - 28 Texas Administrative Code §134.401(c)(4)(A), states "When medically necessary the following services indicated by revenue codes shall be reimbursed at cost to the hospital plus 10%: (i) Implantables (revenue codes 275, 276, and 278), and (ii) Orthotics and prosthetics (revenue code 274)."
 - A review of the submitted medical bill indicates that the requestor billed revenue code 278 for Implants at \$31,100.75.
 - The Division finds the total allowable for the implants billed under revenue code 278 is:

Description of Implant per Itemized Statement	Quantity	Cost Invoice	Cost + 10%
BN Plugs 3110	1	\$252.00	\$277.20
Imp BN Cubes	1	\$1,100.00	\$1,210.00
Imp Lumbar Fusion Primary	1	No support for cost/invoice	\$0.00
TOTAL	3		\$1,487.20

- 28 Texas Administrative Code §134.401(c)(4)(C) states "Pharmaceuticals administered during the admission and greater than \$250 charged per dose shall be reimbursed at cost to the hospital plus 10%. Dose is the amount of a drug or other substance to be administered at one time." A review of the submitted itemized statement finds that the requestor billed \$288.75/unit for Surgicel 4x8, \$612.50/unit for Thrombin 20000 spray kit, and \$719.75/unit for Desflurane 240ml. The requestor did not submit documentation to support what the cost to the hospital was for these items billed under revenue code 250. For that reason, additional reimbursement for these items cannot be recommended.

The division concludes that the total allowable for this admission is \$5,959.20. The respondent issued payment in the amount of \$11,194.00. Based upon the documentation submitted no additional reimbursement can be recommended.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to demonstrate that the disputed inpatient hospital admission involved unusually extensive services, and failed to demonstrate that the services in dispute were unusually costly. Consequently, 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result no additional reimbursement can be recommended.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	<u>3/7/2013</u> Date
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_____ Signature	_____ Medical Fee Dispute Resolution Manager	<u>3/7/2013</u> Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.